

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

FEBRUARY 22, 2000

IN RE:)
)
APPLICATION OF NAVIGATOR) **DOCKET NO. 99-00726**
TELECOMMUNICATIONS, L.L.C. FOR A)
CERTIFICATE TO PROVIDE COMPETING)
LOCAL TELECOMMUNICATIONS SERVICES)

**ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

On January 26, 2000, this matter came before the Tennessee Regulatory Authority ("Authority") upon the Application of Navigator Telecommunications, L.L.C. ("Navigator") for a Certificate of Public Convenience and Necessity to Provide Competing Local Telecommunications Services (the "Application"). The Application was made pursuant to Tenn. Code Ann. § 65-4-201 *et seq.*

LEGAL STANDARD FOR GRANTING CCN

Navigator's Application was considered in light of the criteria for granting a certificate of public convenience and necessity ("CCN") as set forth in applicable statutes. Tenn. Code Ann. § 65-4-201 provides, in part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or

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the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

* * *

(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

An authority order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

In addition, pursuant to Tenn. Code Ann. § 65-5-212, competing telecommunications providers are required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

INTERVENORS

Public notice of the hearing in this matter was made by the Authority's Executive Secretary, pursuant to Tenn. Code Ann. § 65-4-204. No interested persons sought intervention prior to hearing.

NAVIGATOR'S HEARING

Navigator's Application was uncontested. At the hearing held on January 26, 2000, Navigator was represented by Louis F. McAlister, Jr., President and CEO of Navigator. Mr. McAlister presented testimony and was subject to examination by the Authority's Directors. Upon Navigator's conclusion of the proof in its case, the Authority granted Navigator's Application based upon the following findings of fact and conclusions of law:

I. APPLICANT'S QUALIFICATIONS

1. Navigator is incorporated under the laws of the State of Arkansas and received its Certificate of Authority to transact business in the State of Tennessee on February 10, 1999.

2. The street address of Navigator's principal place of business is 212 Center Street, Suite 500, P. O. Box 8004, Little Rock, Arkansas 72201. The phone number is (501) 301-1600 and fax number is (501) 301-1602. Michael McAlister is Navigator's General Counsel and Director of Regulatory Affairs.

3. The Application and supporting documentary information existing in the record indicate that Navigator has the requisite technical and managerial qualifications necessary to provide facilities-based and resold local exchange, exchange access and interexchange telecommunication services throughout the State of Tennessee. Specifically, Navigator's management and technical teams have extensive expertise in the information, computing and telecommunications industries.

4. Navigator has the necessary capital and financial capability to provide the services it proposes to offer.

5. Navigator has represented that it will adhere to all applicable policies, rules and orders of the Authority.

II. PROPOSED SERVICES

1. Navigator proposes to offer a full array of local exchange services to residential and business customers, including Business and Residential Exchange Line Services, Private Branch Exchange Service, Direct Inward Dial Service, Operated-assisted Services, Directory Assistance, and Optional Features (Call Waiting, Call Forwarding, Three-way Calling, Speed Dialing, etc.). Navigator proposes to provide services throughout the State of Tennessee in areas currently served by BellSouth and Sprint/United which are open to competition.

2. Except as may be authorized by law, Navigator does not intend to serve any areas currently being served by an incumbent local telephone company with fewer than 100,000 total access lines where local exchange competition is prohibited pursuant to Tenn. Code Ann. § 65-4-201(d).

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

Upon a review of the Application and the record in this matter, the Authority finds that approval of Navigator's application would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets within the State and by fostering the development of an efficient technologically advanced statewide system of telecommunications services.

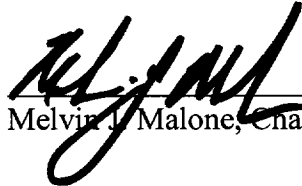
IV. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN & BUSINESS ASSISTANCE PROGRAM

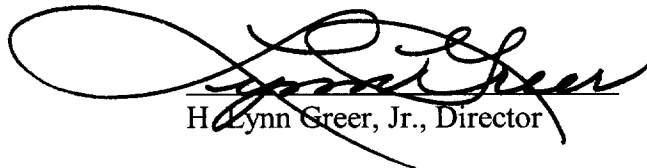
1. Pursuant to Tenn. Code Ann. § 65-5-212 and the Authority's Rules, Navigator has filed a satisfactory small and minority-owned telecommunications business participation plan.

2. Navigator has acknowledged its obligation to contribute to the funding of the small and minority-owned telecommunications business assistance program, as set forth in Tenn. Code Ann. § 65-5-213.

IT IS THEREFORE ORDERED THAT:

1. The Application of Navigator as applied for is approved;
2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order;
and
3. Any party aggrieved with the Authority's decision in this matter has the right of judicial review of filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


Melvin L. Malone, Chairman


H. Lynn Greer, Jr., Director


Sara Kyle, Director

ATTEST:


K. David Waddell, Executive Secretary